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Lucia A Keegan 10/18/2006 09:56:19 AM From DB/Inbox: Lucia A Keegan

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Text:

C O N F I D E N T I A L PARIS 06837

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ACTION: UNESCO  
INFO: POL ECON AMBU AMB AMBO DCM SCI

DISSEMINATION: UNESCOX  
CHARGE: PROG

APPROVED: AMB:LVLIVER  
DRAFTED: LEGALADV:TMPEAY  
CLEARED: NONE

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FM AMEMBASSY PARIS  
TO RUEHC/SECSTATE WASHDC PRIORITY 2248  
INFO RUEHBR/AMEMBASSY BRASILIA PRIORITY 1686  
RUCNDT/USMISSION USUN NEW YORK PRIORITY 0927

C O N F I D E N T I A L SECTION 01 OF 02 PARIS 006837

SIPDIS

DEPARTMENT FOR IO/FO (GANDERSON), L/UNA (DSULLIVAN), L/DL  
(CBROWN), WHA/BSC (MMATERA)

E.O. 12958: DECL: 10/17/2016  
TAGS: [UNESCO](#) [SCUL](#) [BR](#)  
SUBJECT: UNESCO: BRASILIA FIELD OFFICE INVESTIGATION NOW OF  
A CRIMINAL NATURE

REF: (A) PARIS 6225 (NOTAL) (B) PARIS 06435

Classified By: MISSION LEGAL ADVISER T. MICHAEL PEAY, FOR REASONS 1.4 (b) and (d).

11. (C) This is an action request; please see para. 6.

12. (C) Summary. On Friday, October 13, the U.S. Mission was discreetly provided a copy of a letter addressed to UNESCO Director-General Matsuura signed by two Brazilian Federal Prosecutors who informed the D-G that the previously civil investigation of irregularities at UNESCO's Field Office in Brasilia has now turned criminal. While the letter acknowledges that the Organization "is entitled to" immunity, the specificity of the prosecutors' requests to the D-G to cooperate with them (see para.3 below) and thereby "facilitate the proper administration of Justice" could not have been made clearer. Mission requests guidance and recommends (see para. 6) that the Department, at a senior level, discreetly inform Matsuura of the USG's firm wish and expectation that he will take steps to ensure that the Organization extends all necessary forms of assistance requested to aid both the criminal and the civil investigations. Our approach could affirm our respect for the principle of immunity with regard to international organizations and their senior officials, but at the same time also affirm our conviction that UNESCO should, as the letter requests, "help to prevent any abuse" of that immunity to the detriment of this investigation. End Summary.

13. (C) Specific Cooperation Requested. The prosecutors' letter, dated October 12, 2006, informs Matsuura that their investigation is "advancing quickly" and that "the investigation is now of a criminal nature." The letter requests the D-G's active cooperation with the prosecutors'

office in several specific respects. It asks him to submit "all documents and/or reports (UNESCO) has that are directly or indirectly related to the facts and parties involved in the Public Civil Action", to which the letter alludes in an earlier paragraph as an "ongoing investigation." The letter also specifies several offices at UNESCO Headquarters from which such assistance is particularly sought, including but not limited to the Office of Legal Affairs, Internal Oversight Service, UNESCO Brasilia Office, as well as assistance from the External Auditors. (Comment: The new, in-coming UNESCO External Auditor, Mr. Phillipe Seguin, is a French national. However, we do not as yet have a sense of how cooperative he is prepared to be, given the political sensitivity of this investigation and given the fact that the UNESCO's Deputy Director-General (Barboza) is Brazilian). End Comment.

14. (C) UNESCO's Chief Internal Inspector, John Parsons provided us with copies of the incoming letter (please protect), demonstrating once again his willingness to take risks to work closely with us to ensure we receive timely information about this matter. However, he did so with the caveat that the letter had only been given limited circulation within UNESCO's secretariat. Fortuitously, visiting IO DAS Gerry Anderson had had a very informative private meeting with Parsons on October 12 and had been orally forewarned by Parsons of the likelihood the civil investigation would soon expand into the criminal realm. This was then confirmed the following day by the letter.

15. (C) To date, we do not yet know whether a formal criminal indictment has been handed down, when that would be likely, or who the named defendants (or other parties) will be. We expect to see further developments fairly soon, however. For the moment, given the content of the prosecutors' letter, Mission sees UNESCO, the Organization, as arguably analogous to a "material witness" from whom the prosecutors are actively soliciting voluntary (as opposed to compulsory) cooperation, in order to gain access to documents, and possibly testimony, needed to complete their investigation. Interestingly, the letter refers to unspecified "difficulties" the prosecutors have encountered in their efforts to investigate the facts. It is not clear whether this complaint is an allusion to non-cooperation, or worse, obstruction, attributable to the Brasilia Field Office or UNESCO Headquarters (though we believe that D-G Matsuura is genuinely concerned and wants to get to the bottom of this). That said, the D-G can demonstrate his bona fides by using his authority to ensure full and appropriate Secretariat and Field Office cooperation -- from the top down -- to assist in this investigation.

16. (C) Action Request. For the foregoing reasons, we request the Department's guidance and recommend the Department's consideration of a discreet, senior-level approach to the D-G to convey the U.S. Government's firm view and expectation that he should take steps to ensure the Organization extends the necessary forms of cooperation requested to aid both the criminal and civil investigations.

17. (C) On the basis of the Mission's preliminary legal research, it would appear that the D-G has a duty to exercise his judgment and authority to actively cooperate with the prosecutors in the interest of justice, pursuant to Article VI, sections 19(a), 22, and 23 of the Convention on the Privileges and Immunities of the Specialized Agencies of the UN, in respect of UNESCO (to which Brazil is a party). Mission Legal Adviser is prepared to work closely with the relevant L offices to craft an appropriate confidential letter from a senior Department official to Director-General Matsuura.